

Briefing-book case demands special counsel

The FBI and the House subcommittee can't do the case justice.

By Don Edwards

I make no judgments regarding the Carter briefing-book issue. I hope that the investigations prove that the charges are groundless. The entire controversy diverts the attention of Congress, the White House, and the American people from the important issues of the day.

But these investigations are unlikely to produce a satisfactory solution — a public disclosure of all the facts.

Insofar as the investigation by the Department of Justice's FBI is concerned, there is a large conflict of interest because the boss of the department is a political appointee, a close personal friend of President Reagan and an active participant in the 1980 presidential campaign. A reliable rule is, "An investigation of oneself by oneself is unlikely to be trustworthy."

In addition, public allegations have been leveled against high-ranking members of the Reagan administration, including the president's chief of staff, the director of the Office of Management and Budget and the CIA director. They are serious charges and deserve a neutral and objective investigation.

The other ongoing investigation, by a House subcommittee, is having great difficulty chiefly because a congressional committee is not equipped to conduct a criminal investigation. The House Judiciary Committee in the Nixon impeachment inquiry also found this to be true. The president refused to deliver the documents or tapes we needed, and we did not have the investigative skills of prosecutors.

The proper course of action is for Attorney General William French Smith to request that the U.S. Court of Appeals for the District of Columbia appoint a special counsel to conduct this

investigation. This procedure was established by Congress in U.S. Code 28, Chapter 39, to handle the sticky situation inherent in the Carter briefing-book matter — where the Justice Department should not be the investigator because of a political conflict of interest. This procedure would ensure once and for all that the allegations will be objectively and thoroughly investigated.

Those who disagree with me state that the special counsel should not be appointed until the FBI has found proof of criminal activity. My response is that David Stockman, OMB director, stated publicly that the briefing books were "pilfered" from the Carter campaign. Webster's Dictionary defines pilfer as "to steal, to plunder." Is that not indication of criminal conduct?

There are at least four possible violations of federal law in this case:

- ✓ 18 U.S.C. 595 — Interference with an election by government official.
- ✓ 18 U.S.C. 641 — Stealing public property or records.
- ✓ 18 U.S.C. 642 — Stealing personal property on government property.
- ✓ 18 U.S.C. 662 — Receiving property stolen on government property.

The attorney general should promptly petition the court for the appointment of a special counsel. The American people deserve to have this troublesome issue resolved. ■

Don Edwards, D-San Jose, is a member of the House Judiciary Committee. He wrote this article for Perspective.